

JUDGE BERMAN

Thomas M. Grasso (TMG-3737)
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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A.O. SMITH ELECTRICAL PRODUCTS
COMPANY,

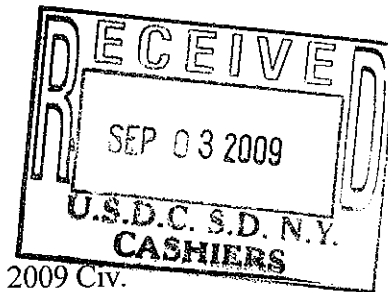
Plaintiff,

- against -

M/V XIN CHONG QING, her engines, boilers,
tackle, furniture, apparel, etc. *in rem*; KUEHNE +
NAGEL INC., KUEHNE + NAGEL LTD., BLUE
ANCHOR LINE and CHINA SHIPPING
CONTAINER LINES CO., LTD., *in personam*,

Defendants.
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09 CIV 7681



COMPLAINT

Plaintiff, A.O. SMITH ELECTRICAL PRODUCTS COMPANY, by and through its attorneys, Casey & Barnett LLC, as and for its Complaint, alleges upon information and belief as follows:

1. This is an admiralty and maritime claim within the meaning of Rule 9(h) of the Federal Rules of Civil Procedure. Jurisdiction is predicated upon 28 U.S.C. §1333.

2. At all material times, A. O. SMITH ELECTRICAL PRODUCTS COMPANY was and is a corporation organized and existing by virtue of the laws of a foreign state with an office and place of business located at 531 North Fourth Street, Tipp City, Ohio 45371 and was

the owner, consignee and/or assured of a consignment of five containers of electric motors laden on board the M/V XIN CHONG QING, as more specifically described below.

3. At all material times, defendant, KUEHNE + NAGEL INC. was and is a corporation organized and existing by virtue of the laws of New York with an office and place of business located at 10 Exchange Plaza, 19th Floor, Jersey City, New Jersey 07302, and at all relevant times, was and is still doing business within the jurisdiction of this Honorable Court as a non-vessel owning common carrier (NVOCC).

4. At all material times, defendant, KUEHNE + NAGEL LTD. was and is a corporation organized and existing by virtue of the laws of a foreign state with an office and place of business located at 10 Exchange Plaza, 19th Floor, Jersey City, New Jersey 07302, and at all relevant times, was and is still doing business within the jurisdiction of this Honorable Court as a non-vessel owning common carrier (NVOCC).

5. At all material times, defendant, BLUE ANCHOR LINE was and still is a foreign corporation with an office and place of business located at Wanchai, 38 Gloucester Road 25/F, MassMutual Tower, Hong Kong, Hong Kong, and was and still is doing business in the jurisdiction and at all relevant times acted in the capacity of a common carrier of goods by water.

6. At all material times, defendant, CHINA SHIPPING CONTAINER LINES CO., LTD. was and is a corporation organized and existing by virtue of the laws of a foreign state with an office and place of business located at 450, Fushan lu, Pudong Xinqu, Shanghai, People's Republic of China, and with an US office located at 11 Philips Parkway, Montvale, New Jersey 07645 c/o China Shipping (North America) Agency Co., Inc., and at all relevant times, was and is still doing business within the jurisdiction of this Honorable Court as a vessel owning common carrier (VOCC).

7. Upon information and belief, at all times hereinafter mentioned, defendant, M/V XIN CHONG QING was and still is a vessel operated as common carriers of goods in ocean transportation for hire and upon information and belief, is now, or will be during the pendency of this action, within this District and subject to the jurisdiction of this Honorable Court.

8. Plaintiff brings this action on its own behalf and as agent and/or trustee on behalf of and for the interest of all parties who may be or become interested in the said consignment, as their respective interests may ultimately appear, and plaintiff is entitled to maintain this action.

RELEVANT FACTS

9. On or about November 24, 2008, a consignment, consisting of five containers of electric motors, laden in Container numbers CCLU2756663, CCLU2790082, CCLU3516899, CCLU2315101, CCLU3495353, then being in good order and condition, was delivered to the M/V XIN CHONG QING and to China Shipping and/or their agents at the port of Shanghai, China for transportation to Houston, Texas in consideration of an agreed upon freight, pursuant Blue Anchor bill of lading numbers 4351-0373-811.019, 4351-0373-811.020, 4351-0373-811.041 dated November 24, 2008.

10. Thereafter, the aforementioned consignment was loaded aboard the M/V XIN CHONG QING and the vessel sailed for its intended destination.

11. Upon discharge, it was discovered that the consignment was not in the same good order and condition as when received by the defendants, but instead, had suffered damages during transit as a result of exposure to salt water.

12. As a result of the damages sustained to the shipment, A. O. Smith Electrical Products suffered a loss.

13. The damage to the cargo was not the result of any act or omission of the plaintiff but, to the contrary, was due solely as the result of the negligence, fault, neglect, breach of contract of carriage, and bailment on the part of the defendants.

14. Plaintiff and its predecessors in title have performed all of the conditions precedent on their part to be performed under the terms of the said contract.

15. By reason of the foregoing, plaintiff has been sustained losses which will be shown with specificity at trial, no part of which has been paid, although duly demanded, which are presently estimated to be no less than \$374,391.77.

16. All and singular the matters alleged herein are true and correct. Plaintiff reserves the right to amend and supplement this complaint, as further facts become available.

WHEREFORE, Plaintiff prays:

1. The Court order, adjudge and decree that defendants Kuehne + Nagel Inc., Kuehne + Nagel Ltd., Blue Anchor Line and China Shipping Container Line Co., Ltd., *in personam*, and M/V Xin Chong Quing, *in rem*, be found joint in and severely liable and pay to plaintiff the losses sustained herein, together with pre-judgment and post judgment interest thereon and their costs; and,

2. That this Court grant to plaintiff such other and further relief as may be just and proper.

Dated: New York, New York
September 3, 2009
176-36

CASEY & BARNETT, LLC
Attorneys for Plaintiff

By: 

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